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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E. I. DU PONT DE NEMOURS AND  
COMPANY,

Plaintiff,

v.

USA PERFORMANCE TECHNOLOGY,  
INC., PERFORMANCE GROUP (USA),  
INC., WALTER LIEW, and JOHN LIU,

Defendants.

Case No. 3:11-cv-01665-JSW

**JOINT STATUS REPORT AND**  
**~~PROPOSED~~ ORDER EXTENDING**  
**STAY OF ACTION**

Judge: Hon. Jeffrey S. White  
Hearing Date: None

Pursuant to the Court’s September 23, 2013 Order, Plaintiff E. I. du Pont de Nemours and Company (“DuPont”) and defendants Walter Liew and USA Performance Technology, Inc. (collectively “USAPT”) submit this Joint Status Report. The parties request that the stay in this matter set to expire on February 28, 2014, remain in place for an additional 31 days, through March 31, 2014.

On April 6, 2011, DuPont filed the instant suit. (Docket # 1.) Defendants filed their Substituted Answer and Counterclaim on July 11, 2011. (Docket # 35.) The action was first stayed on July 22, 2011. (Docket # 39.)

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On August 23, 2011, the United States filed *United States v. Walter Liew and Christina Liew*, No. CR-11-0573-RS. On February 7, 2012, the United States filed a superseding indictment in said action. (*Id.* at Docket # 64.) On March 12, 2013, the United States filed a Second Superseding Indictment. (*Id.* at Docket # 269.) On or about January 7, 2014, trial began in the criminal action. As of the date of this joint status report, the criminal trial has not yet concluded.

DuPont's Position: The second superseding indictment alleges that defendant Walter Liew, his wife, Christina Liew, and several other individual defendants violated multiple federal trade secret and economic espionage laws when they stole – and utilized – the trade secrets at issue in this action. *Inter alia*, Mr. Liew is charged with Conspiracy to Commit Economic Espionage, Conspiracy to Commit Theft of Trade Secrets, Possession of Trade Secrets, Conveying Trade Secrets, Witness Tampering, and False Statements. (*See id.* ¶¶ 16-97.) In addition, the second superseding indictment identifies five DuPont trade secrets relating to its TiO<sub>2</sub> technology at issue in the criminal action. (*Id.* ¶ 14.) The second superseding indictment also names various of the Pangang Companies and charges them with 1) Conspiracy to Commit Economic Espionage, 2) Conspiracy to Commit Theft of Trade Secrets, and 3) Attempted Economic Espionage. (*Id.* ¶¶ 9-10, 17, 22-31, 39-40, 45, 52-54, 57-58.)

USAPT's Position: Defendants believe that the second superseding indictment speaks for itself, and no further explanation or commentary is appropriate or needed.

#### History Relating to the Stay in this Action

On September 7, 2011, this Court issued an Order relating the criminal proceeding with this action, pursuant to its determination that this action and the criminal proceeding are related within the meaning of Crim. L.R. 8-1(b). (Docket # 42.)<sup>1</sup>

<sup>1</sup> On September 16, 2011, DuPont dismissed without prejudice defendant John Liu pursuant to Federal Rule of Civil Procedure 41(a)(1). (Docket # 43.) Thus, the only remaining defendants in this action are Walter Liew and his companies, USA Performance Technology Inc. and Performance Group, Inc.

On September 23, 2011, the parties filed a joint status report requesting that the stay initially entered on July 22, 2011 (Docket # 39), be extended for an additional 60 days. (Docket # 44.) On September 29, 2011, the Court granted the parties' request. (Docket # 45.)

On November 23, 2011, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 46.) The Court granted the parties' request on November 29, 2011. (Docket # 48.)

On January 24, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 49.) The Court granted the parties' request on January 31, 2012. (Docket # 50.)

On March 26, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 51.) The Court granted the parties' request on March 27, 2012. (Docket # 52.)

On May 23, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 53). The Court granted the parties' request on May 23, 2012. (Docket # 54).

On July 23, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 55). The Court granted the parties' request on July 24, 2012. (Docket # 56).

On September 21, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 57). The Court granted the parties' request later that day. (Docket # 58).

On November 20, 2012, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 59). The Court granted the parties' request later that day. (Docket # 60).

On January 18, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 61). The Court granted the parties' request later that day. (Docket # 62).

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On March 26, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 63). The Court granted the parties' request later that day. (Docket # 64).

On May 20, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 65). The Court granted the parties' request on May 21, 2013. (Docket # 66).

On July 12, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 67). The Court granted the parties' request later that day. (Docket # 68).

On September 10, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 69). The Court extended the stay to December 6, 2013. (Docket # 70).

On December 2, 2013, the parties filed an additional joint status report requesting that the stay be extended for an additional 60 days. (Docket # 69). Due to the criminal trial schedule, the Court proposed that the stay be extended to February 28, 2014. (Docket # 72). The parties so stipulated (Docket #73), and the Court extended the stay accordingly. (Docket #74.)

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1 The undersigned counsel request that the stay remain in place for an additional 31 days, at  
2 which time the parties will update the Court.

3 Dated: February 21, 2014

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7 By /s/ Morgan K. Lopez  
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8 Dated: February 21, 2014

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Technology, Inc., and Walter Liew

~~[PROPOSED]~~ ORDER

Having read and considered the Joint Status Report,

**IT IS ORDERED THAT:**

The parties' request that the stay be extended until March 31, 2014 is hereby GRANTED.

Counsel shall submit a joint status report on or before March 24, 2014.

February 25, 2014

  
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Honorable Jeffrey S. White  
UNITED STATES DISTRICT JUDGE